

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Applications of AT&T Inc. and DIRECTV)	MB Docket No. 14-90
for Consent To Assign or Transfer Control of)	
Licenses and Authorizations)	

INDEPENDENT COMPLIANCE OFFICER'S COMPLIANCE REPORT
ON AT&T/DIRECTV MERGER CONDITIONS
APRIL 25, 2017

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INTRODUCTION

On July 24, 2015, the Federal Communications Commission (“FCC” or the “Commission”) issued an order (the “Merger Order”)¹ approving the merger of AT&T with DIRECTV (as a combined entity, “AT&T” or the “Company”), subject to certain conditions (the “Conditions”). Appendix B of the Merger Order sets forth the Conditions and requires the Company to engage an independent, third-party compliance officer.² Donald K. Stern, Esq. of Affiliated Monitors, Inc. (“AMI”) was identified as the Independent Compliance Officer (“ICO”) pursuant to an agreement between AT&T and the Commission’s Office of General Counsel, who approved the selection.³ Staff from AMI were likewise approved to assist the ICO in the discharge of his duties. The ICO is responsible for evaluating the Company’s compliance with the Conditions and is required to submit a report within 60 days of receiving each of the semiannual reports that the Company must submit as part of its compliance obligations under the Merger Conditions.⁴ The ICO received the Company’s First Report⁵ on January 27, 2016, and filed the First ICO Report⁶ on March 28, 2016. The ICO received the Company’s Second

¹ *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131 (2015).

² Merger Order App. B (cited hereafter as “Appendix B” or “App. B”) § VII.3.

³ Public Notice, *Independent Compliance Officer Identified in Accordance with AT&T-DIRECTV Merger Condition*, DA 15-1207 (Oct. 23, 2015).

⁴ The ICO’s report “shall include a detailed description of the Company’s efforts during the relevant period to comply with the conditions and will specifically meet the reporting requirements for the conditions set forth in this Appendix B.” App. B § VII.3.e.

⁵ AT&T Inc. Semi-Annual Compliance Report on AT&T/DIRECTV Merger Conditions dated January 25, 2016 (the “First Report”).

⁶ Independent Compliance Officer’s Compliance Report on AT&T/DIRECTV Merger Conditions dated March 28, 2016 (the “First ICO Report”).

Report⁷ on July 25, 2016, and filed the Second ICO Report on September 23, 2016. The ICO received the Company's Third Report on February 24, 2017. By agreement between the FCC staff and AT&T, the Third Report was submitted 30 days after the original due date.⁸ This was done to permit AT&T additional time to gather FTTP data for this and later reporting periods. As a result, the reporting dates for AT&T are now February 24 and August 24 for each year of the reporting obligation. In this third report (the "Third ICO Report"), the ICO makes observations and a limited number of recommendations based on a review of AT&T's reported progress on the following Conditions:⁹

1. Fiber to the Premises ("FTTP") deployment to 12.5 million mass-market customer locations within four years (the "FTTP Condition"). App. B § III.2.(a).
2. The offer of 1 Gbps FTTP Service ("Gigabit FTTP Service") to any E-rate eligible school or library located within or contiguous to a distribution area in which the Company deploys FTTP-based service (the "E-rate Condition"). App. B § III.2.(d).
3. The prohibition on favoring the Company's own Video Programming (as defined in Appendix B) services, including through the exemption of such services from usage-based allowances (the "Non-Discriminatory Usage-Based Practices Condition" or "NDUP"). App. B § IV.2.
4. The establishment and commencement of a program to substantially increase broadband adoption in low-income households throughout the Company's wireline footprint (the "Discounted Broadband Services Program Condition" or "DBS"). App. B § V.2.

What follows is a description of the methodology of the ICO's data collection and analysis activities employed over the third reporting period, and a presentation, organized by

⁷ AT&T Inc. Semi-Annual Compliance Report on AT&T/DIRECTV Merger Conditions dated July 25, 2016 (the "Second Report").

⁸ *Letter from Matthew DelNero, Chief, Wireline Competition Bureau, FCC, to Maureen R. Jeffreys, Arnold & Porter LLP, Counsel for AT&T*, MB Dkt No. 14-90, DA 16-1370 (Dec. 9, 2016).

⁹ For purposes of the ICO's Third Report, the ICO has not focused on AT&T's compliance with the Condition related to internet interconnection disclosure, which is the subject of a separate analysis by an "Independent Measurement Expert." *See* App. B § V.2.

Condition, of observations, suggestions, and recommendations for improving compliance, reporting, and the ICO's own monitoring activities during the next reporting period.¹⁰ Where useful, the ICO points out specific plans for ongoing verification of the Company's activities under the Merger Conditions.

EXECUTIVE SUMMARY

Since the inception of this engagement, the ICO has developed and used standardized processes for reviewing and validating the Company's compliance with the Merger Order and independently testing data presented in the Company's Report. As detailed within this report, the ICO found that AT&T has met the specific reporting requirements called for in the Merger Order:

- AT&T deployed FTTP to a total of [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] locations by December 31, 2016; it has not exceeded any of the limitations imposed by the Merger Conditions on the FTTP deployment; and it has in place appropriate controls to ensure Connect America Funds have not been used to fulfil its FTTP deployment obligation.
- AT&T has established that it offered 1 Gbps FTTP Service to any E-rate eligible school or library located within or contiguous to a Distribution Area in which the company deploys FTTP-based service, although it has not sold any covered service to an eligible school or library.
- It appears that AT&T has in place appropriate practices and internal controls in the form of training and corporate review processes to achieve compliance with the Non-Discriminatory Usage-Based Practices Condition. The ICO, however, has not been able to validate the Company's practices and controls directly because of limitations imposed by the Attorney/Client Privilege. Notwithstanding the limitations imposed by the Attorney/Client Privilege, the ICO is satisfied the terms and conditions offered customers by AT&T for its Fixed Broadband Internet Access Service, including

¹⁰ See App. B § VII.3.d. ("The Independent Compliance Officer shall have the power and authority to review and evaluate the Company's Implementation and Compliance Plan and any related materials, and recommend to the Company changes to address any perceived deficiencies in the Plan. Any such recommendations shall be included in the Independent Compliance Officer's Compliance Reports.").

usage-based allowances, do not discriminate in favor of AT&T's Video Programming services. The ICO reached this finding based on a thorough review of AT&T's published terms and conditions, including usage-based practices, relating to the Company's Fixed Broadband Internet Access Service.

- AT&T has satisfied all conditions relating to the Discounted Broadband Services Program. It has developed and refined a program that is offering discounted broadband services to eligible customers. The ICO is satisfied the Company is not requiring eligible customers to pay installation or modem charges or fees to participate in the program. AT&T is actively marketing the program and is on track to promote the program through public service announcements having a minimum annual value of \$15 million. It has been aggressive in distributing program information to appropriate organizations and creative in enlisting community support to further the Program. It has provided useful public access points for the Program and taken appropriate steps to ensure the Company's Customer Service Representatives are properly trained.

AT&T has accurately described its compliance activities to date, and provided explanations in the few cases where there is no activity to report. The Company has been responsive to the ICO's requests for information, generally offering timely and useful information. In addition, the ICO notes that AT&T has responded appropriately to recommendations offered by the ICO. In short, AT&T has demonstrated its commitment to satisfying the Conditions of the Merger Order.

Through the course of its ongoing monitoring, the ICO has deepened its understanding and examination of the processes used to track FTTP deployment and has expanded the number of field tests to confirm FTTP locations; continued to examine under the E-rate Condition the process for identifying covered schools and libraries, reviewed all AT&T responses to Form 470 requests to date, and determined a methodology for substantive review of Gigabit FTTP Service deployment to E-rate eligible schools and libraries; continued to review the Company's processes for complying with the Non-Discriminatory Usage-Based Practices Condition reporting, examined the terms and conditions offered by AT&T for its fixed broadband products

and services, and reviewed public and private complaints regarding AT&T's activities affected by the Condition; and evaluated and tested AT&T's Discounted Broadband Services Program against Merger Order requirements, focusing extensively on AT&T's efforts to promote the program, training for personnel associated with the program, and the operations of the call centers responsible for assisting consumers with the application process. We expect to further refine our approach over the next reporting period and would welcome feedback from the FCC or AT&T on our efforts to date.

METHODOLOGY

After completing the review described in the first two ICO Reports, the ICO continued to follow the work plan designed to track AT&T's compliance with each Condition. That effort, ongoing since the issuance of the First ICO Report, relies on the following activities:

- Requests for information necessary to test and evaluate each Condition, as follow-up on ICO recommendations contained in earlier reports, and in response to the Third Report;
- Meetings with the AT&T Project Management Team, as well as representatives from the Company's business lines to review the processes the Company has established to meet each Condition, and results under each Condition to date;
- Document review, data analysis, and related testing and verification; and
- Field visits, which included presentations, interviews, and focus groups.

Requests for Information and Detailed Informational Meetings

As the ICO's review has delved into the Company's reporting processes and engaged in increased substantive testing, so too has the level of information exchange and direct engagement through meetings and site visits expanded over the reporting period. We have found the framework established for this exchange over the past three reporting periods to be productive and efficient. The Company continues to respond to ICO requests, promptly setting meetings

that include the appropriate AT&T business staff and officers, representatives of the operational compliance and legal functions, and outside counsel; providing detailed presentations that included samples, demonstrative aids and illustrations, including live demonstrations of data accumulation and queries of internal databases; facilitating site visits for FTTP verification; and affording in each case adequate time for the ICO to ask follow-up questions.¹¹ These meetings are essential to the ICO's understanding of AT&T's processes and efforts as they are established (and improved upon), both for complying with the Merger Conditions and for compiling the data needed for semiannual reporting.

The ICO's FTTP and E-rate team met with representatives from AT&T's Entertainment Group, Business Solutions, C&E, Legal, Compliance, and Program Management at AT&T's Dallas office on January 12, 2017, to receive an overview of AT&T's FTTP and E-rate efforts. The FTTP discussion focused on AT&T's compliance efforts, and developments relating to reporting Multiple Dwelling Unit location deployments. Specific topics included FTTP build completions, greenfield and Fiber to the Node overbuild reporting, PON Serving Areas (PSAs) with a mix of greenfield and overbuild, and Connect America Fund controls and reporting. The E-rate discussion provided the ICO with the opportunity to gain a greater understanding of the E-rate funding process, the E-rate Form 470 response process, and AT&T's current compliance methodology.

The ICO's DBS Program team met with representatives from AT&T's Entertainment Group/Technology Development, Corporate External Affairs, Legal, Compliance, and Program

¹¹ The Company continues to provide copies of these presentations, making them electronically available to the ICO through outside counsel's extranet portal. The Company also makes available on the portal other documents requested by the ICO, or otherwise deemed useful by the Company for promoting the ICO's understanding of its internal practices, procedures, and controls.

Management at AT&T's Dallas office on January 17, 2017, to receive an overview of AT&T's efforts to comply with the DBS Program Conditions. The discussion addressed AT&T's *Access from AT&T* Program marketing, overall program implementation, and program training.

There were additional meetings conducted live and over AT&T's remote screen-sharing tool, including:

- November 28, 2016 discussion with AT&T representatives on ICO data requests;
- February 9, 2017 meeting in Tucson, AZ, to provide ICO representatives the opportunity to observe operations at [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T's calltaker contractor for the DBS Program, and to interview [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] employees;
- February 16, 2017 meeting between ICO representatives and AT&T representatives to review the *Access from AT&T* on-line enrollment process;
- February 21, 2017 meeting to discuss AT&T's process for separating FFTP build locations using Connect America Funds from those reported as part of the FFTP Condition;
- March 2, 2017 discussion with AT&T's DBS and [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] Teams to review steps taken by AT&T to assess the effectiveness of the DBS Program; and
- March 24, 2017 meeting to address ICO questions regarding the CSV file submitted as part of AT&T's Third Report.

For each of the sessions, AT&T took steps to ensure it had assembled appropriate AT&T representatives to address the matters on the agenda, including senior members of the Company's Entertainment Group, Construction and Engineering (C&E) group, and AT&T's overall Project Management Team. These meetings have permitted the ICO to validate the substantive and procedural aspects of AT&T's compliance efforts.

Document Review and Data Analysis

The ICO reviewed all materials provided with the Third Report, as well as documents provided in response to the ICO's various follow-up information requests. Over the course of the reporting period, and later for purposes of addressing questions relating to AT&T's activities over the reporting period, the ICO submitted multiple formal and informal requests for information to AT&T. In each case, the Company provided documents (both existing business records and materials prepared specifically to respond to requests) that met the ICO's needs. The ICO reviewed these materials and was provided opportunities to follow up with the appropriate AT&T team members to seek clarification and to pose additional questions.

The ICO was able to review the reporting processes and confirm certain data contained in the CSV file regarding FFTP deployment for internal consistency and completeness. The ICO has also been working with AT&T to enhance methods for independent validation of the information in the FFTP CSV file, including the limitations imposed by that Condition. AT&T has provided the ICO with access to the [BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION] this additional information has permitted the ICO to refine methods of independent testing of AT&T's FFTP deployment.

The ICO also reviewed documents and analyzed data relating to AT&T's E-rate compliance practices, its compliance with the NDUP Condition, and the Company's progress across the range of requirements set forth as part of the DBS Program Condition. The ICO has continued to review the Company's complaint monitoring process. The complaint review process affords the ICO with an additional opportunity to discover Condition-related issues that

may warrant further attention, while also demonstrating the performance of a critical element of the Company's internal controls.

Field Visits

The ICO planned and conducted field visits to randomly selected properties within selected geographic areas to confirm FTTP customer installation as reported by AT&T in its CSV file. To increase overall confidence in the verifications results, the ICO significantly expanded the number of field visits over the prior reporting periods. As described in more detail below, this verification process involves selecting sample customer locations from a chosen metropolitan area and visiting each customer location in the sample to verify each of the data fields contained in the FTTP deployment file. The ICO plans to conduct these FTTP site visits on a rolling basis throughout the period the Merger Conditions are in effect (with new locations reported by AT&T incorporated into the total potential sample population).

AT&T reports it has responded to all FCC Form 470s submitted from covered school and libraries for services required under the condition. To date, AT&T has not received any order for 1 Gigabit Service and, therefore, has not reported any E-rate deployments. That said, once AT&T reports E-rate deployments, the ICO will take appropriate steps to verify and validate the deployment. The ICO also has engaged in field-testing of the Company's DBS Program in the form of reviewing audio recordings of customer-service calls and mailings provided to certain target groups, and conducting a site visit to **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] AT&T's call center contractor responsible for providing customer service relating to *Access from AT&T*.

APPROACH TO OBSERVATIONS AND RECOMMENDATIONS

This Third ICO Report contains the ICO's observations relating to AT&T's compliance with each Condition, including recommendations and suggestions intended to help AT&T improve the success of its compliance efforts. The ICO relates its observations, suggestions, and recommendations here with the acknowledgment that this marks the third round of reports for both the Company and the ICO, that the two are in regular contact and routinely discuss modifications to the evaluation process. In addition, the ICO and AT&T are each separately in regular contact with Commission staff. The ICO has benefited from suggestions offered by AT&T and the Commission staff.

AT&T COOPERATION WITH THE ICO

The ICO recognizes that compliance with the Merger Order Conditions is a significant undertaking on behalf of AT&T. In addition, making the numerous documents and other vast quantities of the Company information available, and in a form that is amenable to analysis and comment by the ICO, requires more effort still. The staff and leadership of AT&T have been cooperative and supportive of the ICO, particularly with regard to (a) communicating the importance of the ICO's review, and encouraging cooperation, transparency and active participation; (b) accommodating requests for documents, scheduling meetings, and arranging site visits; and (c) expending considerable time and resources handling the logistics for field and other visits. The Company's dedicated team for Merger Condition compliance continues to demonstrate by its words and actions a commitment to meeting the Conditions and assisting the ICO in discharging his duties.

OBSERVATIONS ON AT&T’S COMPLIANCE WITH MERGER CONDITIONS

1A. FTTP CONDITION

FTTP Observation 1: AT&T’s FTTP reporting satisfies Condition requirements.

We found that AT&T has directly addressed the conditions set forth in subsections III.2.a.-c. of Appendix B and delivered a report that satisfies subsection 3.a. The ICO reviewed the Third Report and Exhibit 1 regarding the reporting requirements set forth in Appendix B of the Merger Order. The Third Report provides the number of customer locations where FTTP service has been deployed as of December 31, 2016, as well as the number of greenfield locations, upgrades from FTTN technology, and the use of CAF subsidies. The CSV file submitted as Exhibit 1 to the Third Report contains each of the fields prescribed in Appendix B § III.3.a.(ii), as well as additional information (Distribution Area (DA), service address, and a unique “service address identification number”). The Third Report discusses plans to begin including locations in Multiple Dwelling Units in future semiannual reports where AT&T has not been able to obtain a “Right of Access” agreement. Additionally, based on an agreement with the FCC, AT&T has begun to count customer locations where latitude and longitude has not yet been determined (rather than excluding those locations from the FTTP count until that information can be determined).

The FCC Order approving the merger required AT&T to expand its FTTP coverage to at least 2.6 million mass market customer locations by December 31, 2016. AT&T has exceeded that requirement. The Total FTTP deployment as of December 31, 2016 and the remaining

Condition goals are presented in the following table¹²:

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

December 31, 2016 Goal	2,600,000
December 31, 2017 Goal	5,000,000
December 31, 2018 Goal	8,300,000
Four Years of the Closing Date	12,500,000

FTTP Observation 2: AT&T has appropriately updated the FTTP reporting process.

In response to ICO recommendations on the Second Report, AT&T has updated the documented FTTP Reporting Process it uses to prepare the CSV file and compliance reports for the FTTP Condition. We note that AT&T has now “mechanized” (or automated) the processes for extracting necessary information from its ordinary-course-of-business databases to create the CSV file. The ICO recommended in its review of the Second Report that, for purposes of promoting accuracy and consistency, AT&T should complete the “mechanization” of its data extraction efforts and update its documented process to capture these improvements. AT&T has met this challenge. The ICO team finds the updated AT&T FTTP reporting process document useful for understanding and analyzing the reported data.

AT&T provided the ICO a summary of the **[BEGIN CONFIDENTIAL INFORMATION]**

¹² The FTTP Deployment numbers are extracted from the Third Report, as verified by the ICO. The Goals are extracted from the Merger Order.

[END CONFIDENTIAL INFORMATION] At the ICO's request, AT&T also provided a copy of the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] which has enhanced the ICO's ability to independently evaluate compliance with Condition limits and exclusions.

FTTP Observation 3: Condition limits have not been reached.

The ICO reviewed the CSV file and confirmed that AT&T has not exceeded the FTTP Condition limits for greenfield locations and FTTN Upgrade to properties already receiving 45 Mbps, as shown in the table below.¹³

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

We expect AT&T will reach the greenfield limit at some point near [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]

FTTP Observation 4: AT&T has not used Connect America Funds for the FTTP deployment required by the Condition.

The ICO tested and confirmed that locations funded with Connect America Funds (CAF)

¹³ The ICO extracted the June 30, 2016, Balance from the Second Report and the December 31, 2016, Balance from the Third Report, as verified by the ICO. The ICO extracted the Condition Limits from the Merger Order.

were not included in the CSV file. To reach this conclusion, the ICO asked AT&T to explain how it obtained the funds from the FCC and how AT&T accounted for those funds. We also asked AT&T to explain its controls for ensuring the Company did not comingle CAF with other AT&T funds for FTTP construction activity which could lead to a misallocation of FTTP locations reported under the Merger Order. In a presentation provided on March 21, 2017, AT&T explained the process for receiving CAF and its process for controlling those funds to ensure compliance with the Condition, which includes:

- **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL

INFORMATION]

Consistent with the explanation offered to the ICO, AT&T added a footnote to the Third Report that states “AT&T has excluded from the CSV file any constructed FTTP customer location that is located in a PSA that AT&T reported as eligible for CAF I or CAF II funding, whether or not these CAF funds were used in whole or in part to construct that FTTP customer location.” Third Report, p. 10, n. 20.

As part of our tests to confirm that no locations funded by CAF were included in the CSV file we also conducted a query of the data provided by AT&T to identify the term “CAF,” as

well as variations of the terminology including “CAF I,” “CAF II” or “USF” (Universal Service Funds) to ensure that no locations funded in this manner were included. We also tested to determine if [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] designated locations were included. We did not identify any evidence suggesting AT&T’s FTTP count included any locations funded using CAF. The ICO is satisfied that AT&T has separated CAF from its general funds for FTTP construction activity reported under the Condition.

FTTP Observation 5: AT&T secured permission to count certain Multiple Dwelling Unit Customer Locations where the Company has not been granted a Right of Access, but the Company will not include those locations in its FTTP location count until the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]

The CSV files for the first three AT&T Reports contain locations in Multiple Dwelling Units (MDUs) where AT&T has been granted a Right of Access (ROA) the property and fiber has been deployed. However, for those MDU locations where AT&T and the property owner have not agreed to an ROA, the FCC had not permitted AT&T to count those locations, although fiber had been brought to or near the property for that purpose. AT&T asserted that, regardless of whether AT&T ultimately deploys FTTP service to customer locations within the MDUs, AT&T has the “technical ability” to provide FTTP service and should be permitted to count the locations towards FTTP buildout requirements under the Condition. Third Report, p. 11, n. 22.

To address the issue of dealing with MDUs, the FCC, AT&T and the ICO have now agreed to a new counting methodology for MDU FTTP deployments, which AT&T describes in its Third Report:

AT&T, Commission staff and the ICO have agreed upon a process that AT&T will use to report Customer Locations to which FTTP has been deployed within

certain multiple dwelling units (“MDUs”). In particular, AT&T may count towards the FTTP buildout requirements the Customer Locations within MDUs that require the MDU owner and AT&T to agree to a right of access to deploy fiber within the MDU when (a) AT&T has deployed fiber within that MDU to the full extent of the rights obtained by AT&T from the MDU owner; or (b) AT&T has extended fiber to accessible terminals or other facilities in the right of way outside that MDU where the MDU owner does not grant access or the parties cannot agree on a plan for extending fiber within the MDU. In each case, for the Customer Locations to be counted, the FTTP deployment or fiber allocation must conform to certain parameters, which AT&T has implemented during the reporting period.

If the MDU owner rejects AT&T’s request for access to deploy fiber within the MDU or the parties cannot agree on a plan for extending fiber within the MDU, AT&T will send a certified letter to the owner of the MDU confirming that the MDU owner has not granted AT&T access to deploy fiber within the MDU. After AT&T sends the certified letter, AT&T may count such Customer Locations towards the FTTP buildout requirements provided that AT&T satisfies certain additional requirements if AT&T subsequently reaches an agreement with the MDU owner.

Third Report, pp. 10 – 12.¹⁴

Notwithstanding this agreement, AT&T has elected not to count locations in MDUs where an ROA has not been agreed to until it can **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] Therefore, AT&T does not expect to report any of the MDU units that qualify under the agreement until the **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] semiannual compliance report. Our FTTP

¹⁴ See also, Third Report, pp. 10-12, n. 20 – 24.

field verifications to date have not encountered any MDUs where AT&T does not have ROA to the property.

FTTP Observation 6: The ICO has verified the FTTP deployments reported by AT&T.

The ICO has continued to refine and improve field verification measures necessary to sample and verify AT&T reported FTTP deployments. For this reporting period, the ICO's field verification of random samplings of FTTP deployed locations over the reporting period found no exceptions to the locations reported by AT&T.

Sampling Methodology and Process

We first developed the ICO Sampling Plan for 2016 based on the data in the CSV file provided by AT&T in its First Report dated January 25, 2016, and subsequently amended in the Second Report dated July 25, 2016. The original plan randomly selected 16 cities or geographical areas. Within those selected areas, the ICO drew a random sample of AT&T designated DAs and, within each DA, a random sample of addresses where FTTP deployment was identified by AT&T. This sampling methodology relied on smaller clusters of DAs within a selected geographic area, which permits a random selection of installations with equal probability of selection that are also more likely to be geographically proximate (which tends to increase site visit efficiency).

During the review period, the FCC requested that the ICO expand the sample size to improve confidence in the validation of AT&T's efforts. In late 2016, for the ongoing testing of the initial FTTP locations, five additional geographic clusters were added to the sample and random DAs and random addresses from those DAs were included for inspection, bringing the total geographic locations sampled through the end of March 2017 to 21.

Of the original 16 geographic clusters, three were selected and inspected and included in the Second ICO Report: Chicago, IL; Indianapolis, IN; and Westerville, OH. Ten of the remaining 13 samples are included in this report: Augusta, GA; Columbia, SC; Austin, TX; Corpus Christi, TX; Gallatin, TN; Leander, TX; Miami, FL; Mission Viejo, CA; Yorba Linda, CA; and Oklahoma City, OK. The remaining three samples: West Sacramento, CA; Cypress, TX; and Spring, TX are scheduled to be visited in March of 2017, and will be factored into the results in the next ICO report. An additional five samples were extracted from the Third Report CSV file and visited in time to be included in this report: Delray Beach, FL; Jacksonville, FL; Moore, OK; San Antonio, TX; and Kansas City, MO. This brings to 15 the number of samples factored into the ICO's Third Report.

Pre-Site Visit Process

The field visits consist of confirming the address included in the CSV file is FTTP capable. Because prior site visits have identified address anomalies related to new construction (greenfield sites), the ICO now provides AT&T with a full list of the proposed site visit locations approximately one week in advance of each visit. This allows the Company to prepare in advance a list of Fiber Serving Terminals (FSTs) from construction blueprints intended to serve specific customer locations and to provide updated information regarding sample addresses that may have been altered during the final construction of living units. In turn, this allows the ICO SME to confirm more quickly the location is FTTP capable. Addresses of MDU locations, where AT&T reportedly has deployed FTTP service, are now provided to AT&T approximately two weeks in advance so that access to telecom closets and other necessary areas may be arranged with building managers as needed.

Field Visit Steps

The ICO Telecommunications Subject Matter Expert (ICO SME), accompanied by an AT&T field technician, travels to the address, and takes a Latitude and Longitude reading at the FTTP address. The ICO SME identifies which installed FST serves the selected sample location based on engineering information provided by AT&T and tests for fiber optic cable plant continuity to the Primary Flexibility Point (PFP). If any customer location is in fact connected to the FST, the continuity test step is omitted, because the fiber connection itself demonstrates that AT&T is not only technically able to provide FTTP service, but is in fact providing it. If there are no connections to the FST, the AT&T technician tests for fiber optic cable plant continuity to the PFP. The FST continuity testing is conducted using a dB loss light meter to measure light power loss between the PFP and the FST. Any value under **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** loss is considered acceptable for the line to go into service. In the event the fiber optic cable at the FST does not have a spliced termination (typical of underground service), the SME will confirm FTTP capability between the PFP and the FST by visual observation of light emanating from the unterminated end of the fiber optic cable at the FST.

Field Visit Results

The ICO samples included for this report total 184 separate DAs across 15 distinct samples. After culling the samples to provide a logistically practical route for visits, 171 sites were visited in the field. This represents a significant increase from the 93 sites across 9 samples reported by the ICO in the first two reports.

The ICO SME found that all 171 locations visited met the criteria for inclusion in the

FTTP site count. The ICO SME verified 161 locations during the field visits, with the remaining 10 being verified shortly after the field visit through the provision of additional data supplied by AT&T. Typically, that additional data consisted of engineering drawings demonstrating that a dwelling was proposed by a developer where one was not yet built. For one location where the FTTP verification process failed the test (no light on the fiber) during the site visit, AT&T satisfactorily confirmed to the ICO SME that, subsequent to the installation of the FTTP infrastructure, ongoing construction activity had severed the fiber optic cable plant. Since there were no active customers on the service, AT&T was unaware of the outage until our field test.

Address Anomalies Exist

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The ICO also learned that it is not uncommon for AT&T to change, update, or remove sites from the latest revision of the CSV for reasons including, but not limited to:

- Changes in street names from the planning/design phase to the construction phase by developers or municipalities.
- Changes in home orientation on corner lots from the planning/design phase to the construction phase by developer/owner resulting in the house having an address on a perpendicular street.
- **[BEGIN CONFIDENTIAL INFORMATION]**

**[END
CONFIDENTIAL INFORMATION]**

Several of the site addresses in the ICO sample had to be modified because the ICO sample is based on CSV files that are later updated by AT&T. AT&T explained in the Third

Report:

The data provided in Exhibit 1 (CSV file) is obtained from AT&T's ordinary course databases, which may be modified or corrected from time to time. For example, these databases are routinely updated with changes, corrections, and improved data that may be obtained from the field as part of the ongoing FTTP deployment process. Such updates are common in greenfield locations where changes routinely occur as part of the development process, but database updates also occur in locations where AT&T overbuilds fiber. Accordingly, the information provided in Exhibit 1 for a particular Customer Location in one reporting period may be updated in a subsequent reporting period. As explained in the Second Semi-Annual Compliance Report, for each compliance report, AT&T plans to provide information for each of the total Customer Locations to which AT&T has deployed FTTP service in satisfaction of this Condition as of the end of that reporting period based on the data available in the ordinary course databases at that time.

Third Report, p. 13, n. 28.

Overall, the ICO finds these address anomalies are primarily the result of changes that occur as a normal part of property development; the anomalies have not yet impacted the accuracy of reported FTTP deployment. While these anomalies present additional work and challenges for the site visit teams in verifying FTTP deployment, and may yield minor discrepancies in AT&T reported data, the ICO is working with the Company to understand why these circumstances occur and to adjust our verification plans, if appropriate. Likewise, AT&T engineers are working to identify where these conditions exist and to have documentation readily available to explain the circumstance during the field visit or immediately after the visit. As FTTP site verification continues, we expect both sides to continue refining and improving their processes.

ICO Plans for 2017 Inspections

The sampling plan for 2017 will adhere to the basic methodology established in 2016

with two exceptions. As discussed earlier, as part of the pre-site visit process, AT&T has begun obtaining and reviewing construction documents and blueprints of DAs prior to inspections and having those records available at the time of the inspection. Having this process in place greatly assists the ICO SME and AT&T to resolve quickly site condition challenges encountered during visits. Given this process improvement, as well as efficiencies gained through the learning process associated with multiple site visits, the ICO SME and AT&T have reduced the time necessary for each site visit. Consequently, the ICO SME now estimates he could conduct as many as 25 inspections per day. Accordingly, the size of the geographic clusters within a given sample has been increased to a minimum of 25 DAs, potentially doubling the number of inspections going forward.

The second change to the methodology is to increase the number of clusters visited to two per month. The increase in the number of clusters visited is appropriate given the increased number of FTTP deployments required by the Condition in 2017. We have provided AT&T with the cities/geographical areas to be visited at the beginning of the inspection year to allow for the ICO SME and AT&T personnel to coordinate schedules and group clusters according to their geographical proximity.

FTTP Observation 7: FTTP latitude and longitude reporting continues to present challenges for AT&T.

AT&T is taking reasonable steps to collect and report latitude and longitude. That effort, however, poses significant challenges for AT&T, the result of which being the latitude/longitude data presented by AT&T frequently are inaccurate.

AT&T excluded from the first two reports filed under the Merger Order locations where latitude and longitude could not be identified. The First Report states that “over [BEGIN

HIGHLY CONFIDENTIAL INFORMATION] **[END HIGHLY CONFIDENTIAL INFORMATION]** were excluded and the Second Report provides Exhibit 1.2 which lists **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** locations that were excluded. This changed for the Third Report:

During the reporting period, AT&T, Commission staff and the ICO have agreed that AT&T may report Customer Locations to which AT&T has completed FTTP deployment during a reporting period, but for which latitude and longitude coordinates are not available in AT&T's ordinary course databases as of the end of the reporting period.

Third Report, p. 13. For the Third Report, AT&T has included **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** locations where FTTP has been deployed but the latitude and longitude have not been identified. AT&T understands it must provide the latitude and longitude coordinates in a subsequent report when those coordinates become available. The current AT&T FTTP Reporting Process provides a measure of control for data now being included in the CSV stating: **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] *AT&T FTTP Reporting Process, Data Mapping Steps*, p. 35.

Identifying Accurate Latitude and Longitude Remains a Challenge

As part of our field verification of FTTP deployment, the ICO SME takes a latitude and longitude reading at each selected FTTP address and compares it with the information reported on the CSV file. The field observations of latitude and longitude coordinates has shown a

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] AT&T has acknowledged challenges relating to this process. *See* Second Report, p. 12. Notwithstanding AT&T's efforts, the latitude and longitude data presented by AT&T frequently are inaccurate, undermining the value of the information. It is worth noting, even if the data were accurate, it would add little value to the ICO's efforts to verify and validate the FTTP build required by the Condition.

1B. E-RATE CONDITION

FTTP E-Rate Observation 1: AT&T's E-rate reporting satisfies Condition requirements.

The ICO has reviewed the Third Report and Exhibits 2 through 6 to address the reporting requirements set forth in Appendix B. The Third Report includes a list of covered schools and

libraries to which AT&T has submitted a bid to provide FTTP service (Exhibit 2), and copies of the Form 470s associated with each bid (Exhibit 3). AT&T reports that it is complying with the E-rate condition by “[d]eploying as requested 1 Gigabit FTTP Service to any bid awarded for that service by a covered school or library.” Third Report, p. 16. While technically accurate, AT&T did not receive any contracts to deploy 1 Gigabit FTTP service to any covered school or library and, therefore, did not submit a related CSV file. The Third Report also contains Exhibits 2.b and 2.c which update AT&T’s First and Second Reports with the addition of covered schools and libraries the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] and Exhibits 3.b and 3.c which contain the Form 470s that were submitted by those schools and libraries.

The Third Report includes a description of outreach activities, including AT&T’s efforts to promote awareness of the opportunity for covered schools and libraries to bid for 1 Gigabit FTTP Service; an example of AT&T’s direct mail and email outreach efforts to covered schools and libraries (Exhibit 4); a list of technology conferences (Exhibit 5) at which AT&T sales representatives plan to interact with prospective E-rate customers; and a sample of a promotional flyer (Exhibit 6). In summary, ATT has directly addressed the conditions set forth in subsection III.2.d. of Appendix B and delivered a report that satisfies subsection III.3.b.

FTTP E-rate Observation 2: AT&T Modified its Mapping Process for Identifying Covered Schools and Libraries.

In the Third Report AT&T explained that it has modified its previously used methodology for identifying covered schools and libraries under the FCC Order. The E-rate Condition requires AT&T “to offer 1 Gbps FTTP Service . . . to any E-rate eligible school or

library located within or contiguous to a DA in which the Company deploys FTTP-based service.” In its Third Report, AT&T points out that the Distribution Area (DA) term relates to boundaries associated with copper technology. For fiber, the term equivalent to Distribution Area is a Passive Optical Network (PON) Serving Area (referred to as “PSA”). Third Report, p. 16. AT&T also states that PSA boundaries are often similar, but not identical to copper DA boundaries.

During our review of the Second Report, AT&T provided the ICO with its publication, *Determination of Intersection Between E-rate Locations & AT&T U-Verse with FTTP Build Plan* (May 2016), which [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] As stated in the Third Report, however, AT&T:

modified its methodology for identifying covered schools and libraries based on its experience implementing this Condition over the past year. [BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION]

Third Report, p. 17.

AT&T informed the ICO in November 2016 that the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] Exhibits 2.b and 2.c list the covered schools and libraries that have been amended in the First and Second Reports, while Exhibits 3.b and 3.c contain the Form 470s submitted by AT&T.

In January 2017, AT&T provided the ICO with an updated version of the *Determination of Intersection Between E-rate Locations & AT&T U-Verse with FTTP Build Plan*. AT&T also provided an overview of the mapping process that was being modified and explained that in November 2016 it began using **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] to help it identify covered schools and libraries. AT&T advised that this revised method is “overly inclusive” and will likely identify greater than **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** schools and libraries. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] AT&T will treat as “covered” all schools and libraries located within a fiber route in which AT&T has established or plans to establish a PSA. The ICO finds AT&T’s overly inclusive approach reasonable and appropriate **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]**

INFORMATION]

The ICO is satisfied AT&T has disclosed the **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] the ICO intends to request a detailed presentation from AT&T to ensure we understand the revised process. The ICO will then take appropriate steps to verify the Company is complying with the Condition.

FTTP E-rate Observation 3: AT&T has Refined its Process for Tracking and Responding to Form 470s.

AT&T has refined and updated its process for tracking and responding to Form 470s. The *DTV I.B. Merger Requirement Processes* replaces the *470 Monitoring and Support Process* AT&T used to produce the Second Report E-rate section. The new process includes a number of updates in terminology, process changes resulting from obtaining USAC (Universal Services Administrative Company) produced school and library data, and clarifications relating to the detailed steps for monitoring and tracking Form 470s. The updated procedure also includes steps for compiling the CSV file of deployed Gigabit customers. The ICO compared the processes described in the Third Report and found them consistent with documented steps for identifying Form 470s submitted by schools and libraries contained in the listing developed by the FTTP mapping process.

The ICO confirmed that AT&T continues to use an expansive promotional outreach program that includes both direct outreach to covered schools and libraries, along with an effort

to promote more general awareness of AT&T's services among actual and potential E-rate customers. As part of this effort, AT&T revised its E-rate customer notification to make it more attractive and useful to potential customers.

AT&T Responded to All Received Form 470s

The E-rate fiscal year runs from July 1st to June 30th. Under the Commission's procedures, individual schools and libraries, school districts, library systems, buying consortia and states may post a Form 470 each fiscal year until approximately March/April, seeking bids for a contract that typically would begin the following July 1st.

Because of the timing of the E-rate season, there were no reportable 1 Gigabit FTTP Service deployments to covered schools and libraries during the first or second reporting period (*i.e.*, through June 30, 2016). However, any 1 Gigabit FTTP Service deployment to covered schools and libraries after July 1, 2016 up to December 31, 2016 would be reported in the Third Report and a CSV file listing those deployments would be required. In January 2017, AT&T provided the ICO with an overview of the E-rate process and associated results of AT&T's efforts. According to AT&T:

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END]

HIGHLY CONFIDENTIAL INFORMATION]

As of December 31, 2016, AT&T had not installed any 1 Gigabit FTTP Service covered by this Condition, and therefore did not have any data to report in response to the Condition requirement and did not include a CSV file for the E-rate Condition. AT&T explained:

There are multiple reasons why AT&T may have few, if any, reportable deployments of 1 Gigabit FTTP Service during a reporting period. For example, AT&T faces competition from other private internet access service providers and may not have been chosen as the internet access provider. In addition, in several states, internet access to schools and libraries is provided by a state agency or consortium, and as a practical matter schools and libraries are not interested in purchasing internet access directly from a private service provider. To the extent AT&T is chosen as the internet access provider, the school or library may choose to utilize service at a speed either above or below 1 Gigabit. And even if the covered school or library purchases internet access from AT&T and elects to install 1 Gigabit FTTP Service, the customer may require that service to be delivered at a location or locations that are not within or contiguous to AT&T's FTTP deployment.

Third Report, p. 22.

Similarly, during the January 2017 meeting with the ICO FTTP E-rate team, AT&T provided possible reasons why potential customers did not purchase its 1 Gbps FTTP Service, and it offered a breakdown of the Form 470s:

Possible Reasons for not purchasing 1 Gigabit Service

- AT&T may be providing services other than 1GB to these customers
 - Lower speeds
 - Higher speeds
 - Other services
 - Other locations
- Potential reasons AT&T's 1GB bid was not selected
 - Applicant chose a speed other than 1GB or a service other than Internet Access
 - Applicant has existing contracts or services with competitors or sought to continue existing relationship
 - Applicant chose not to purchase E-rate services
 - Applicant determined AT&T's bid was not the most cost effective
 - In many states (such as CA, WI, MI, IL, GA, and others) there is a state agency or consortium that provides Internet Access to E-rate customers, so those customers generally will not procure their Internet Access from other providers such as AT&T

Analysis of Form 470s

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

AT&T opined that schools and libraries frequently fall under state or county contracting activities and would not be in the market for 1 Gigabit services independently. AT&T also explained that its Ethernet “win rate” was **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

[END HIGHLY CONFIDENTIAL INFORMATION] from the last two E-rate seasons, suggesting that competition for services has increased. Based upon the information provided and the level of effort put forth by the company, AT&T’s explanations seem reasonable. Over the next reporting period the ICO will take steps to test and validate AT&T’s explanations.

2. NON-DISCRIMINATORY USAGE-BASED PRACTICES CONDITION

NDUP Observation 1: AT&T's NDUP reporting satisfies the Condition set forth in Subsection IV of Appendix B.

The ICO has reviewed the Third Report and Exhibit 7 regarding the requirements set forth in Appendix B, Section IV. As required by the Condition, AT&T's Third Report details its compliance with this condition, including a description of the terms and conditions of its usage-based allowances relating to Fixed Broadband Internet Access Service and the Company's procedure for enforcing them. *See* Third Report at 26-29. Exhibit 7 contains a variety of information related to AT&T's Fixed Broadband Internet Access Service usage allowance practices, including: AT&T High-Speed Internet Terms of Service; AT&T Internet Terms of Service; Broadband Information; descriptions of network practices and performance characteristics; screenshots of the Company's online data calculator; customer "frequently asked questions"; descriptions of the monthly usage allowance tiers; webpages reflecting data-plan bundling options for new and existing customers; relevant Myatt screenshots (including Shopping Flow and Adjust Data Limits screens); customer announcement letters; and relevant blog releases. *See* Third Report at 27-29 and Ex. 7. The descriptions and supporting materials presented by AT&T in the Third Report accurately capture the information on its website relating to the terms and conditions associated with its usage-based allowances for its Fixed Broadband Internet Access Service. AT&T has delivered a report that addressed the condition set forth in subsection IV.2 of Appendix B and delivered a report that satisfies subsection IV.3.

NDUP Observation 2: AT&T's Terms & Conditions and usage-based practices comply with the Condition.

The Third Report expressly states that AT&T does not discriminate in favor of its own Video Programming services, and that AT&T has complied fully with the Condition throughout the reporting period. Third Report at 26. The information available to the ICO confirms that AT&T's retail terms and conditions, including the application of usage-based allowances, do not discriminate in favor of its own Video Programming services or any content or application available through its Video Programming services, including through the exemption of one or more of its Video Programming services from usage-based allowances, in a manner that violates the Condition.¹⁵

The ICO did not identify any unbundled Fixed Broadband Internet Access Service offerings that included terms and conditions, usage-based allowances, or other features that discriminated against unaffiliated online video distribution services or favored AT&T's offerings. The usage-based allowances imposed by AT&T on its Fixed Broadband Internet Access Service offerings had equal application across the customer's online video use.

AT&T makes available on its public website all product and service offerings for its Fixed Broadband Internet Access Service, including the terms and conditions, and associated usage-based allowances, relating to those offerings. The ICO reviewed the relevant offerings, including the terms and conditions and usage-based allowances, published at www.ATT.com/internet, the AT&T Acceptable Use Policy, the Broadband Information Page, the Internet Usage Page, the Home Internet Data Usage FAQs, and the Internet Terms of Service.

¹⁵ The Condition "does not prohibit the Company from offering discounts for integrated bundles of the Company's U-verse or DIRECTV satellite Video Programming service or rebranded offering of these services with the Company's Fixed Broadband Internet Access Services." App. B § IV.2.

The ICO also reviewed the promotions and product offerings under the Bundles Page, the Internet Page, and the AT&T Fiber Page. On the Internet Usage Page, AT&T provides customers with information regarding data allowances, such as the monthly allotment of data, the availability of free unlimited data with bundling DirecTV or U-verse TV, and the offer of unlimited data for \$30/month without the bundle. AT&T also provides customers with resources to assist them in determining their data usage. The resources on AT&T's website include: "The Basics of Using Internet Data" video, the Data Calculator, the "How to Check Your Broadband Usage" video, and Usage Tips. The ICO did not find evidence of discriminatory intent or effect in these resources, rather the published resources adequately inform the customer of what data usage means and how to monitor it.

In reviewing the retail terms and conditions on the AT&T website, the FAQs, and the Broadband Information Page, the ICO did not identify any evidence that AT&T was discriminating in favor of its Video Programming services for its Fixed Broadband Internet Access Service. AT&T discloses the data usage limitations. AT&T states in the Home Internet Data Usage FAQs that it will treat all customer's traffic the same, regardless of whether the customer is receiving unlimited data through bundling, adding it to their existing services or they have a monthly data allowance.¹⁶ AT&T also explains in the Broadband Information Page that it uses network management practices to deal with congestion in its broadband network. Moreover, AT&T specifies in the Internet Terms of Service that it may adopt reasonable network

¹⁶ AT&T's DirecTV Now offering, while targeted largely at AT&T's mobile network users, is also available for use over a customer's Fixed Broadband Internet Access Service. The ICO did not identify any information indicating AT&T discriminated in favor of DirecTV Now with its Fixed Broadband Internet Access Service customers.

management practices. Those network management practices include capping a customer's data usage, modifying a customer's serving facility or service technology, and/or modifying or limiting a customer's data throughput speed or data consumption. AT&T explains in its published materials that it will provide customers with notices when it adopts network management practices that apply to the customer's service. As noted above, AT&T's published materials inform customers that these network management practices will affect all customer's traffic the same.

AT&T provided the ICO with copies of its previous and current High-Speed Internet Terms of Service, the Broadband Information Page, a screenshot of the Online Data Calculator, the Broadband Usage FAQs, the Internet Usage Support Landing Page, the Myatt Sales-Shopping Flow, and copies of several other webpages containing product and data usage information. Third Report, Ex. 7. The ICO compared the documents submitted by AT&T with the documents the ICO reviewed on the AT&T website. In conducting this comparison, the ICO did not identify any material discrepancies that raised concerns between the documents provided by AT&T and the documents on the website.

NDUP Observation 3: The ICO has not identified any customer, public, or other complaints establishing a violation of the Condition.

The ICO conducted continuous monitoring of the internet for complaints alleging discriminatory usage-based practices on the part of AT&T. One of the ways this was achieved was using internet alerts. The ICO set up broad alerts with the words "AT&T DirecTV," so that any content (articles, blogpost, etc.) containing those words would be flagged automatically and sent to the ICO via email. While the ICO received many alerts over the reporting period, the ICO did not identify any complaints alleging a violation of the Condition. Most of the alerts

received concerned articles about AT&T's new product offerings and promotions; some concerned lawsuits involving AT&T (unrelated to the Condition); others commented on AT&T's business deals.

Another method used by the ICO to monitor the internet for complaints involved visiting websites that consumers or groups use as platforms for complaining about or discussing telecommunication practices.¹⁷ Two of the websites, Consumer Affairs and Broadband Expert, published complaints about AT&T, mostly concerning the quality of the company's services and the cost of the services. Some of the complaints involved AT&T's data allowances, but these complaints did not raise genuine concerns relating to the Condition. Rather, the complaints took issue with the fact that AT&T imposed data caps, as opposed to presenting facts or information that AT&T used data caps to discriminate against unaffiliated video distribution services. There were complaints made between June 2016 to December 2016 that involved the speed of AT&T Internet when customers streamed Netflix.¹⁸ A search of Netflix's ISP Speed Index showed, however, that AT&T U-verse Internet is in the top 10 of United States internet service providers and that AT&T U-verse internet increased in speed as of December 2016.¹⁹ Thus, these

¹⁷ <https://forums.att.com/t5/Internet-Forum/ct-p/attinternet> (last visited March 2, 2017); <http://www.broadbandexpert.com/high-speed-internet-reviews/att/> (last visited March 2, 2017); https://www.consumeraffairs.com/internet/att_broadband.html (last visited March 2, 2017).

¹⁸ https://www.consumeraffairs.com/internet/att_broadband.html?page=5 (last visited March 27, 2017); https://www.consumeraffairs.com/internet/att_broadband.html?page=7 (last visited March 27, 2017).

¹⁹ <https://media.netflix.com/en/company-blog/netflix-isp-speed-index-for-december-2016> (last visited March 27, 2017); <https://media.netflix.com/en/company-blog/netflix-isp-speed-index-for-november-2016> (last visited March 27, 2017); <https://media.netflix.com/en/company-blog/netflix-isp-speed-index-for-october-2016-1> (last visited March 27, 2017); <https://media.netflix.com/en/company-blog/netflix-isp-speed-index-for-september-2016-1> (last visited March 27, 2017). The Netflix Speed Index is a measure of prime-time Netflix performance on a particular ISP and not a measure of overall performance for other services/data that may travel across the specific ISP network. Faster Netflix performance generally means better picture quality, quicker start times and fewer interruptions.

complaints did not raise concerns that AT&T was engaging in discriminatory usage-based practices that favored affiliated content over unaffiliated content.

The ICO also searched websites where non-profit groups like The Free State Foundation, Consumers Union, and Public Knowledge post complaints or discuss AT&T's internet services.²⁰ In searching The Free State Foundation blogposts dating back to June 2, 2016, the ICO did not find any complaints concerning merger condition violations. There were, however, several writings that took issue with AT&T's Sponsored Data Plan, alleging the plan permitted AT&T to discriminate in favor of its Video Programming service. For example, the Public Knowledge site included a paper written by Public Knowledge and the Consumer Federation of America that classified AT&T's Sponsored Data Plan on the wireless network as a discriminatory practice.²¹ As these writings focused on AT&T's wireless network, they do not raise a potential violation of the Condition.

²⁰ <http://freestatefoundation.blogspot.com/> (last visited March 16, 2017); <http://consumersunion.org/blog/> (last visited March 16, 2017); <https://www.publicknowledge.org/> (last visited March 16, 2017).

²¹ Mark Cooper, *Overcharged and Underserved: How a Tight Oligopoly on Steroids Undermines Competition and Harms Consumers in Digital Communications Markets*, at 101 (December 2016).

Furthermore, the ICO reviewed a sampling of complaint summaries provided by AT&T on a monthly-basis. These complaints originated from several different sources. For example, some of the complaints were made directly to AT&T, the FCC, to the Better Business Bureau, and to state attorney general offices.²² None of the complaints presented evidence of a violation of the Condition.

NDUP Observation 4: AT&T continues to use process controls tailored to achieve compliance with the Condition.

During the last reporting period, AT&T provided the ICO with an overview of the system the company put in place to ensure compliance with the NDUP Condition and other legal requirements related to its product offers and pricing. The three pillars of the compliance system are training, process controls, and its reporting obligation to the FCC. During the current reporting period, the ICO attempted to review, assess, and evaluate AT&T's training and process controls as related to the NDUP Condition.

Training

The ICO's Second Report noted that AT&T had provided training rosters establishing that approximately [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T management and staff had received training relating to the NDUP Condition, and that one or multiple training sessions had been convened almost every month between August 2015 and May 2016. ICO Second Report at 35. According

²² [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The ICO concluded those complaints did not involve a violation of the Condition.

to AT&T, the training sessions are conducted by AT&T's outside counsel, and reportedly include an overview of the Condition, an examination of the specific terms and conditions imposed by the Condition, and a discussion of hypothetical customer offers that might implicate the Condition.

The ICO requested that AT&T produce relevant training materials and provide other opportunities to gain greater insight into AT&T's training (*e.g.*, observe training and/or interview those receiving the training). AT&T denied the ICO's request. AT&T informed the ICO the training and training materials were subject to the Attorney/Client Privilege, as the training and related materials consisted of protected attorney/client communications. On February 14, 2017, the ICO's project manager met with AT&T legal counsel to discuss options for gaining access to AT&T's NDUP training and related materials. AT&T legal counsel explained the training materials were developed by AT&T legal counsel and reflect the opinions of legal counsel as to what is necessary for the company to comply with its legal obligations under the Condition. If redacted to remove privileged content, legal counsel opined the materials would be worthless. Concerning the privilege relating to the conduct of the training, AT&T legal counsel explained that because of the legal content of the training, legal counsel conducted the training for the AT&T business teams, and the training was designed to provide the opportunity for candid attorney/client exchanges between counsel and the business representatives.

Without the ability to observe training, to interview those receiving the training, or to review the training materials, the ICO can only observe that AT&T appears to be providing appropriate employees with training on how to comply with the NDUP Condition. The ICO cannot comment directly on the effectiveness of the training and related materials.

Process Controls

AT&T has designed a process to ensure management secures legal approval for all new product offers and pricing before those offerings are made available to the public. For purposes of complying with the NDUP Condition, the control process generally starts with the business team presenting the details of its offer to AT&T legal counsel. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] This process is supported by two forms: **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] AT&T provided the ICO with copies of both forms. AT&T withheld from the ICO populated versions of the forms reflecting actual product offerings. According to AT&T, those populated forms are subject to the Attorney/Client Privilege as those forms contain protected communications between attorney and client. The ICO explored with AT&T legal counsel, during the February 2017 meeting referred to above, options for gaining greater visibility into AT&T's process controls as AT&T uses those controls to vet actual product offerings for compliance with the NDUP Condition. The parties were unable to identify a way for the ICO to achieve greater visibility into the process given the privilege, other than for the ICO to review the output of the process in the public offerings published by AT&T on its website and in advertisements. Without access to the populated forms used by AT&T to review specific product offerings, or the ability to interview the AT&T officials and employees involved in the process, the ICO can only observe that AT&T has designed what appears to be an appropriate set of process controls to achieve compliance with

the NDUP Condition. The ICO cannot comment directly on how the process controls work or the effectiveness of the controls AT&T has put in place.

Notwithstanding the limitations experienced by the ICO relating to gaining access to information and activities subject to the Attorney/Client Privilege asserted by AT&T, the ICO believes that the available evidence demonstrates that AT&T has designed a multi-layered review process (together with a training regimen) that creates a positive internal control environment to support Condition compliance. This conclusion is borne out by the ICO's findings in the foregoing discussion relating to the NDUP Condition. The ICO has not identified any evidence in the public space (*e.g.*, the product offerings and related terms and conditions on AT&T's website, complaints posted on public sites, or complaints otherwise made available to the ICO) indicating a lack of compliance with the NDUP Condition. *See* NDUP Observation 2, *supra*.

3. DISCOUNTED BROADBAND SERVICES PROGRAM CONDITION

DBS Observation 1: AT&T's DBS reporting satisfies Condition requirements.

AT&T has satisfactorily addressed the conditions set forth in subsections VI.2.a - h of Appendix B and delivered a report that satisfies subsection 2.i. AT&T's Third Report includes: (1) the total number of households participating in the DBS Program; (2) a detailed description of outreach efforts made during the reporting period to promote the DBS Program to schools and community-based organizations, including a list of participating organizations, and representative examples of promotional and collateral materials provided; and, (3) an analysis of DBS Program effectiveness to date. In its Third Report AT&T described its compliance with FCC Condition VI requirements along with an analysis of its overall effectiveness in meeting the

requirements imposed by the Condition.

AT&T has cooperated fully with the ICO over the reporting period on matters relating to the DBS Program. The ICO issued Requests for Information (RFIs) to AT&T seeking relevant documentation, information, and data to provide a clearer understanding of AT&T's implementation and management efforts. The primary request was sent on November 10, 2016, with a follow-up request sent on January 30, 2017. The RFIs addressed DBS Program marketing, implementation, training, and quality improvement. Among other responses, the ICO received from AT&T: marketing packets and distribution lists; evidence of DBS Program advertising expenses; copies of customer bills; redacted recordings of calls to the customer call center; additional training materials; and quality improvement data. As has been the case, much of the requested information was posted by AT&T to the secure, external website.

The ICO's full DBS Team met with the AT&T DBS Team in Dallas on January 17, 2017 to discuss the materials submitted by AT&T and to get a better sense of the work of AT&T's DBS Team. On February 9, 2017, three members of the ICO DBS Team made a site visit to AT&T's contracted call center in Tucson, which is run by **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** During that visit, ICO staff interviewed **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** managers, conducted two focus groups comprising call center customer service representatives, and observed live training of recent **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** hires.

In addition to the on-site meetings, AT&T hosted DBS conference calls with the ICO on

the dates listed below to address the topics raised in the RFIs, field questions in real-time, and/or to prepare for the in-person meetings.

<u>Conference Call Date</u>	<u>Topic of Discussion</u>
November 11, 2016	Clarification of the RFI
January 27, 2017	Planning for Tucson/ [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] visit
February 16, 2017	Review and walk-through of online enrollment process
March 2, 2017	Consultation with quality improvement team [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]
March 16, 2017	Follow-up on remaining RFI matters

We note that one request – for recordings of 40 calls/month made to the call center(s) pertaining to the Access Program – proved to be especially time-consuming in two respects. First, calls were selected by the ICO DBS Team via joint ICO /AT&T conference calls. The ICO had limited information and was primarily aiming for short and medium length conversations and a distribution across the customer service representatives. Then, after selection, all identifiable information was redacted from each recorded conversation by AT&T staff and reviewed for compliance with confidentiality regulations before being posted on the extranet site. The ICO and AT&T DBS Teams discussed this process at the January 17th in-person meeting and agreed to: a “standing” request for 21 recorded calls per month; a randomized call selection process; and prompt posting of the calls to the secure, external website. In a subsequent discussion, AT&T notified the ICO that redacted calls would be posted by the middle of each month.

DBS Observation 2: AT&T's DBS Program, established on April 22, 2016 as required under FCC Condition VI, is operational and robust.

After review and assessment of available information provided by AT&T in various formats along with independent testing as identified in this report, the ICO is satisfied the AT&T DBS Program (*Access from AT&T*) has been operational as of April 22, 2016, has adequate management support, and continues to garner new enrollees. AT&T's Third Report, indicates the following:

- Eligible customers continue to be provisioned at the highest speed available at their location as set forth under the Condition, with applicable pricing provided.
- The *Access from AT&T* Program is being offered to qualifying households in areas with connection speeds lower than 3 Mbps at a rate of \$5 per month, going beyond the requirements set forth in the Condition.

The ICO has verified AT&T's representations.

AT&T reports that customers of the DBS Program are not subject to any installation or modem charges or fees to participate. The ICO found that in most cases, customers are not charged installation fees, although some *Access from AT&T* customer invoices reviewed by the ICO included charges relating to telephone jack installation. In discussions with the ICO, AT&T staff explained that AT&T does not charge *Access from AT&T* customers for installation of basic inside wiring or for installation of a telephone wall jack if they need one to receive service. According to AT&T, only [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] of *Access from AT&T* customers were assessed such a charge and, of these, all were for "convenience moves," that is, relocation of a telephone jack inside a dwelling for the customer's convenience or the installation of additional telephone jacks in response to a customer's request. Notwithstanding this explanation, the ICO observed confusion on the part of the Company's Customer Service Representative calltakers in the context of explaining fees associated with telephone jack installation to establish service or to

respond to customer convenience requests. The ICO will take steps over the next reporting period to verify AT&T's explanation.

For the Discounted Broadband Services Program, AT&T [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] so that all qualifying prospective participants may obtain broadband service. In the Second Report, the ICO reported that [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] and outstanding debts associated with wireline services incurred more than 6 months from application are waived to help facilitate easier access to the Program.²³ While the former is accurate, the latter is not entirely so. Outstanding debt for AT&T's Fixed Broadband Internet Access Service is not factored into the application process, but it is not waived; [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The clarified process, we note, is still more favorable to consumers than the Condition requires.

As of December 31, 2016, AT&T documented [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] unique views to *Access from AT&T* on its website, and [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] visits to its

²³ Second Report, p. 44.

Apply Now Link. Third Report, p. 49. These figures are consistent with the data provided to the ICO by AT&T's DBS Team in the form of its Key Performance Indicators (KPI).

As of December 31, 2016, AT&T's third party partner responsible for customer call center support, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] handled [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] calls related to the program. *Id.* These figures are consistent with the data provided to the ICO by AT&T's DBS Team in the form of its Key Performance Indicators (KPI).

As of December 31, 2016, AT&T was providing discounted broadband service to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] households through the *Access from AT&T* Program, distributed among all 21 states in the wireline footprint. Third Report, pp. 49 – 50. These figures are consistent with the data provided to the ICO by AT&T's DBS Team in the form of its Key Performance Indicators (KPI).

Protocols and processes are in place to determine if DBS Program applicants meet requirements regarding SNAP eligibility (or SSI in California):

- AT&T has continued its engagement of third-party vendor, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to conduct SNAP and other eligibility/verification checks at the time of DBS Program application.
- Applicants are required to provide evidence of participation in SNAP (or SSI in California), and AT&T has expanded its definition of acceptable documentation of participation to alleviate customer difficulties with this aspect of the application process.

AT&T reports that it is simplifying its annual recertification process. Rather than require a renewal application, AT&T has explained it will notify current *Access from AT&T* customers

that they will be automatically approved for the next year and direct them to contact AT&T for alternative service only if they no longer participate in a benefit qualifying program. Because no customers had yet reached their renewal date during this reporting period, the ICO was not able to confirm that this revised process will be implemented as described. However, we were able to confirm that a mechanism is in place to inform the customer service representatives about the revised process. The ICO will review the renewal process in the next report to further verify and validate AT&T's process.

The ICO reviewed a sample of two billing statements from each of the 21 states in AT&T's wireline footprint. AT&T generated the statements through a random selection process and provided recent bills of 42 customers (redacted for customer names and other confidential information) to the ICO for review. Out of this set, the ICO selected 10 for which we wanted additional information. At our request, AT&T provided all bills for these 10 individuals, going back to the time of enrollment in the *Access from AT&T* Program. The findings below pertain to the 10 accounts which were reviewed in depth:

- No one was charged an installation or modem fee;
- One customer was charged a "Non-returned Gateway" fee of \$150, but this amount, plus the relevant taxes of \$13.02, were credited to the account in the following month;
- One account was charged a "Convenience Fee" of \$5.00;
- Data usage caps were listed, as well as monthly data usage; and
- One customer bill reviewed involved both the *Access from AT&T* Program and DirecTV service. On this bill, the internet connection appeared as having "unlimited data," although it was not entirely clear to what service the "unlimited data" reference referred. The ICO recommends that AT&T make it clear on its bills what, if any, data usage limits are applicable to the *Access from AT&T* Program.

While the ICO identified some billing anomalies, the ICO concluded those anomalies were not material to AT&T's compliance with the Condition.

Based on the information reported by AT&T to date and our independent reviews, the ICO is satisfied that all key aspects of the DBS Program meet Condition requirements.

DBS Observation 3: AT&T continues to provide a link on its consumer-facing homepage dedicated to the *Access from AT&T* (DBS) Program.

AT&T has established a dedicated webpage devoted to the *Access from AT&T* Program; a link to this page is provided on the AT&T consumer-facing homepage. The ICO has visited the *Access from AT&T* website in the desktop and mobile applications during the period to assess coverage and accessibility. Random navigation of the website has been conducted at least bi-monthly. The *Access from AT&T* webpage provides key Program information, eligibility details, cost, speeds available, contacts and resources. Desktop and mobile versions of the *Access from AT&T* page are available in English and Spanish. The ICO has found the site to be consistently operational.

The ICO notes that, since the last report, AT&T has made it easier to reach the *Access from AT&T* page. For example, if a user did not know that the program was called *Access from AT&T*, but entered the terms “discount broadband,” “discount internet,” or “low cost internet” into the AT&T search engine, the Program comes up within the first five listings. A search of “SNAP” brings up the *Access from AT&T* Program within the first 20 listings.

The ICO tested the online enrollment process and found it to be operational. AT&T provided the ICO with “mocked up” credentials to test the online enrollment process (address, telephone number and image to be scanned when the SNAP card was required). In one instance, the ICO was not able to complete the enrollment due to internet connection problems; in another

instance, the ICO “timed out” of the enrollment by taking too long to upload the required image. The ICO notes the problems we experienced are consistent with those conveyed by callers in the call recordings reviewed, which led to denials (for “time-outs”) and the need to restart the application process. With a good internet connection and a better understanding of how to upload an image, the ICO was able to complete several test enrollments. We found the online application process to be a little difficult – the language was rather dense, the process for uploading supporting images was a not intuitive and might be especially difficult for someone who is not familiar with internet interactions.

AT&T has already recognized challenges associated with the online enrollment process and made appropriate changes to make it easier for customers. For example, AT&T now asks each applicant for an email address and, when possible, sends email communications about the process – rather than relying strictly on U.S. mail. They also have trained customer service call agents to assist individuals in submitting the proper documentation.

Although certainly not necessary to fulfill the requirements of the Condition, the ICO suggests that some additional modifications to the online enrollment process might make it easier for applicants:

- Consider simplifying the language;
- Consider adding a “Before you begin” button and/or moving some of the information that currently is placed below the “Apply Now” button to the top of the page, so that applicants might be more inclined to read it;
- Consider making a “how to” video that applicants can watch before starting the application so that they will understand what documents they need and how they can attach them to their applications; and/or
- Consider adding the customer service/help telephone number to each page of the application.

AT&T has a fully accessible and functioning webpage to describe the DBS Program, which gives information to possible participants and begins the application process. AT&T is satisfying the requirement to provide on its consumer-facing homepage a link to a webpage devoted to describing the DBS Program.

DBS Observation 4: AT&T reports that, in addition to training its Customer Service Representatives prior to commencement of the DBS Program, it continues to provide ongoing training regarding Condition requirements.

AT&T has reported that internal training and awareness programs were and are in place for customer service and other representatives who may have interactions with customers about the DBS Program. Training programs describe program benefits, restrictions, application processes, and other Condition requirements. Copies of training materials were made available to the ICO. Specifics reported to the ICO by AT&T include:

- As of July 12, 2016: (1) [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] individuals, representing [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] of Inbound Call Center staff who were likely to have such interactions, completed such training; (2) [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] individuals, representing [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] staff who were likely to have such interactions, completed such training; and (3) [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] of the employees working on the *Access from AT&T* matter for [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] the third-party vendor engaged by AT&T to handle the application review process, completed such training.
- The ICO reviewed the lists of trained individuals provided by AT&T. The percentages tracked with the numbers of listed trainees.
- Dedicated *DBS Program Customer Service Centers* – All customer service agents associated with the DBS Program, including third-party vendor representatives, were

trained prior to Program launch on April 22, 2016 and ongoing training programs remain in place for new hires.

- AT&T provided the names of the individual employees of [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] who received training in the *Access from AT&T* Program. The Company also provided copies of the training materials.
- As reported by AT&T, training is currently conducted and provided through various methods, to include: web-based, leader-led, webinars, workshops, and weekly meetings.

The ICO conducted the following activities relative to the Condition that AT&T train its customer service representatives:

- Reviewed the training materials provided by AT&T. Although we noticed some minor differences in materials intended for different groups, we found the materials addressed the DBS Program offerings, pricing, and other FCC terms and conditions;
- Reviewed the lists of individuals trained;
- Sent a team of three people to Tucson to spend a day at the site of the third-party vendor, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to interview managers and team leaders, conduct focus groups with customer service representatives, and observe a training session for new hires; and
- Reviewed recordings of 41 call-center interactions.

In addition, the ICO asked to see the online course provided to new hires to familiarize them with the *Access from AT&T* Program. AT&T has agreed to provide the ICO with a link to this course; we expect to comment on it in the next report.

We found the original training, as described, and the ongoing training for new [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] calltakers, as partially observed at [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] provided customer service representatives and others with accurate and adequate information about the DBS Program. As it relates to the calltaker

training:

- Average training time for call center agents at [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] and *Access from AT&T* is covered during that time.
- Training comprises slides, hand-outs, interactive sessions, problem-solving and call scenarios.
- The trainer observed by ICO staff was knowledgeable, engaging and professional.
- The [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] managers understood the basics of the DBS Program, although they did not have the level of understanding that the call center agents have. They said that the [BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION]

- Twelve call center agents participated in the two focus groups (six in each). They conveyed an impressive knowledge of the DBS Program and expressed pride for participating in a program that helps people have access to the Internet.
- Calls in English and Spanish are handled by [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] agents; staff said that assisting callers with other language needs via the language assistance interpreters was straightforward.
- [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] tracks quality metrics, as does AT&T's quality assurance team, [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

- Some call agents said [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] If/ when further changes are made (*e.g.*, to the renewal process), it may be helpful to over-communicate such information to the call agents.

The ICO listened to a sample of 21 calls which were made to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] call center agents in the month of January 2017. Fourteen conversations involved callers who were either inquiring about the program or were calling to activate their DBS account; one of these calls was in Spanish. With regard to explaining these elements of the *Access from AT&T* Program, the ICO found the agents did a good job in 13 of the 14 calls. By language, the good rated calls were 1 Spanish and 12 English. (One call was rated “poor” by the ICO because the agent was so bound to the “script” that he did not seem to answer the caller’s questions.)

DBS Observation 5: AT&T is on target to meet or exceed the general marketing and targeted outreach required under Condition VI for the current reporting period.

AT&T has reported that the \$15 million required threshold value related to promotional activities, including public service announcements, will be met or exceeded annually. The ICO understands that AT&T is tracking the \$15 million value on an annual basis which coincides with the compliance conditions. That is, the annual value for the first such year will be concluded on April 21, 2017. AT&T has provided information and invoices to the ICO indicating that it is on target to reach the annual value of \$15 million by April 21, 2017. The data provided indicate that, as of December 31, 2016 – just slightly over 75 percent of the way through the annual compliance period – AT&T had promoted the DBS Program at a value of just slightly over 75 percent of the Condition requirement. AT&T explained to the ICO that some of the value would be provided in the form of in-kind advertising offered via DirecTV. Therefore, if a public service announcement “buy” is made by the DBS Program on DirecTV, the value of this buy would be attributed toward the required \$15 million.

When the full compliance year is complete, the ICO will review invoices and other documents to ascertain whether AT&T completed the requirement to promote the DBS Program with a minimum annual value of \$15 million.

DBS Observation 6: AT&T has exceeded the requirement to distribute DBS Program marketing information to at least 20 organizations that work with low-income communities on a national and local level.

AT&T reports that, with support from national non-profit organizations *EveryoneOn* and Connected Nation, it has provided information about the Program to more than 1,200 local and national organizations, of which over 600 have agreed to promote the program. Third Report, p. 42 & Ex. 8. The ICO understands that many of the local and national organizations which have agreed to disseminate information about the DBS Program are doing so through “low-tech” means: signs, fliers, and hand-outs. However, many are also sharing the news about the Program on their websites, in their electronic newsletters, and on their social media pages (*e.g.*, Facebook).

For purposes of confirming the 20-organization requirement was met, the ICO assumed that organizations which were promoting the program online received appropriate marketing information from AT&T, Connected Nation, or *EveryoneOn* (another organization working with AT&T, primarily for outreach to schools and school districts). The ICO did an Internet search for key terms such as, “Access from AT&T,” “partner organization,” “Facebook” and “low cost Internet.” We found live links to more than 20 organizations that were promoting the Program. The organizations whose sites were visited by the ICO were headquartered in the following states: California, Illinois, Iowa, Kansas, Michigan, North Carolina, South Carolina, Texas, and Virginia. We also found links and information posted by national organizations, including

Housing and Urban Development (HUD), the League of United Latin American Citizens (LULAC), the National Parent Teacher Association (PTA), American Counseling Association, and the American School Counselor Association (ASCA).

The partnership with HUD is not limited to dissemination of DBS Program information on its website. AT&T provided the ICO with press releases and articles about its collaboration with HUD in the ConnectHome initiative to provide Internet access to low-income families living in HUD-assisted housing. The kick-off for this collaboration was held in Los Angeles and attended by then HUD Secretary Julián Castro. Articles described the event as both informational and practical: providing attendees with an opportunity to learn about the DBS Program and receive help signing up for it. As of December 31, 2016, nine additional such events were held in Arkansas, Georgia, Illinois, Louisiana, Ohio, and Texas. Twenty of these events will be held in 2017.

AT&T provided the ICO with copies of collateral materials describing the DBS program in a range of languages. The materials we received were available in: Arabic, Chinese, English, Haitian Creole, Korean, Spanish, and Vietnamese.

Although the outreach to 30 times more organizations than required by the Condition is impressive in itself, AT&T has also worked with Connected Nation to survey the partnering organizations about what materials they have used, what kind of outreach they have done, and whether they will continue to disseminate the AT&T DBS Program information in the coming year. The information which AT&T has received via the survey is helping to inform its efforts going forward, feeding into the ongoing quality assurance process.

DBS Observation 7: AT&T met and continues to meet its requirements to provide information and collateral materials to and through the schools and school professionals in the wireline footprint.

AT&T reports it made contact with, and provided promotional/collateral materials to, public school districts within the AT&T wireline footprint and requested materials be included in the NSLP mailings. AT&T's partner/vendor, *EveryoneOn*, was responsible for communicating with a select number of school districts within the AT&T wireline footprint regarding the NSLP program. AT&T provided the ICO with a list of the individuals, institutions and districts contacted through this initiative. AT&T has reached out to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] individual principals, teachers, counselors and others at a total of [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] educational institutions, from [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] school districts. AT&T reports that *EveryoneOn* followed up the initial contact by phone call with 1,520 school districts. The ICO reviewed the collateral materials that were sent to school professionals. The materials are clear and accurate. As described in the previous report, they are available in any of the seven languages listed above, the electronic versions have links to facilitate next steps, and the message of the materials is getting students online. The collateral materials appear to be appropriately informative.

AT&T has provided and will continue to provide education programs for school professionals about the DBS Program. AT&T reports *EveryoneOn* has hosted 3 webinars about the DBS Program, conducted 51 presentations and hosted 12 enrollment events for school superintendents, principals, school board presidents, counselors and National Student Lunch

Program (NSLP) administrators. The ICO will work with AT&T for future events to determine if there is a way to confirm that they are successfully executed. AT&T indicates it will host 30 program and enrollment events in 2017 for families and organizations. The ICO will ask AT&T to provide it with copies of promotional materials about these events and/or media coverage of them so the ICO can validate these as well. As reported above relative to its work with national organizations, AT&T is leveraging its relationships with groups such as the National PTA, the American School Counselor Association, and the American Counseling Association as another way to spread information about the *Access from AT&T* Program. Lastly, the ICO does not know of any request by the FCC for AT&T to adjust its outreach efforts.

DBS Observation 8: AT&T has maintained a dedicated phone number and process to verify DBS Program eligibility, and qualifying callers are transferred to a centralized order-entry center.

AT&T has two numbers dedicated to the *Access from AT&T* Program: (855) 220- 5211 for English-speaking callers and (855) 220-5225 for Spanish-speaking callers. The call centers are managed by [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] If an individual calls who speaks another language, the call agents patch in a translator through the language assistance program. As described above, the ICO went to the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] site in Tucson, Arizona and observed a training session, conducted interviews with managers, and facilitated focus groups with call center agents. As also noted above, the ICO established a process to review 20 - 25 calls made to the dedicated line per month. The calls are now selected at random by AT&T, redacted of all personal identifiable information, then posted on the secure, external website. In this review period, the ICO received

and reviewed calls in English and Spanish. The ICO found that call agents in this review period were more knowledgeable and more comfortable with the process than in the previous review period. Everyone was courteous. There was some variation in responses to questions – some agents were quick to suggest that applicants use the paper application process, others were more facile in assisting applicants with their questions about the online application.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

AT&T's in-house quality assurance team) are tracking metrics related to the call centers and making changes based on their findings. The ICO DBS Team conferred with members of AT&T's **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** Team and its DBS Team via conference call on March 2, 2017. During that call, the AT&T representatives described several quality improvement changes to the process, including:

- Communication with applicants via email regarding status of applications, which has reduced the follow-up calls in this area;
- Chat sessions added between **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** (the application-processing vendor), giving call agents real-time information about customer status, as well as reasons for denials; and
- Use of “huddles” at **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** to communicate new information to call center agents. In this last area, the AT&T representatives described the huddles as in place and working effectively; we note, however, that three weeks prior to this conference call, the call center agents said they had limited exposure to huddles.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

[BEGIN CONFIDENTIAL INFORMATION] Team also explained they have started a special study of calls to be sure the call agents are providing good customer service and appropriately communicating the program

requirements. [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

The eligibility verification process, managed through the third-party vendor, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] remains in place. As described in the first ICO Report, AT&T has a detailed Application Review matrix that outlines requirements for the application, how eligibility is evaluated and determined, and general disposition handling, from the onset of contact with AT&T through installation and enrollment in the DBS Program. AT&T indicates it has established a [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

For DBS Program application denials, AT&T has established a protocol for attempting to resolve discrepancies. Since the last report, AT&T has reviewed the metrics related to application denials and made changes to its processes to facilitate the application process. For example, AT&T has:

- Expanded the list of documents which are acceptable to demonstrate SNAP participation (or SSI in California) (e.g., allowing variations of applicants' names, letters from SNAP in addition to/ instead of SNAP cards).
- Permitted applications to remain "open" indefinitely (rather than the original 30-day deadline), so that applicants have sufficient time to collect and submit appropriate materials.

- Started collecting email addresses of applicants and communicating about the application status in this manner. For some applicants, this method is easier for getting and sending information than U.S. Mail communications (although these are also sent).
- Started reviewing and responding to messages sent to the “Do Not Reply to this Email” address.

DBS Observation 9: AT&T has a robust, internal monitoring and quality assurance process dedicated to the DBS Program.

AT&T has implemented a detailed quality assurance process for the DBS Program. The AT&T DBS Team reports that it [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] AT&T’s DBS Team reports that changes it has made to allow additional supporting documentation of SNAP participation (or SSI in California), may be reducing the number of applications rejected for insufficient documentation. AT&T’s DBS Team has observed that some approved applications do not result in requests for installations. The AT&T Team has initiated an outreach effort of contacting these applicants by telephone to encourage completion of the process and/or to determine if there are additional complications preventing such completion. As discussed above, AT&T’s [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] Teams shared their key performance indicators with the ICO and explained how the quality improvement initiatives instituted (and explained in depth in the “Analysis of Effectiveness of Program” section of the February 24, 2017 Report) tracked with various upticks in their quality data.

[BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION] the third-party contractors for the *Access from AT&T* Program, both report they have their own quality assurance processes, including collection and analysis of key performance indicators, which they discuss with AT&T and use to improve their systems.

DBS Observation 10: AT&T has provided a thorough analysis of the effectiveness of the DBS Program, including steps it has taken and intends to take to improve the effectiveness of the program.

Since program inception, AT&T has taken steps to provide DBS Program service to over

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY

CONFIDENTIAL INFORMATION] qualifying households. Third Report, p. 49. In achieving these results, AT&T has provided program information to over 1200 organizations; over 600 of those organizations have agreed to promote the *Access from AT&T* Program among the populations they serve. *Id.* AT&T described in its reports the steps it has taken, or will take, to improve program effectiveness. Those steps include:

- To attract more subscribers, on July 21, 2016, AT&T extended program eligibility to California residents who participate in the California SSI program.
- AT&T expanded service to qualifying customers that were unable to receive service at the 3Mbps speed tier, but who are able to receive service of up to 768 Kbps or 1.5Mbps; AT&T offers this program access for \$5/month.
- AT&T is participating in HUD's ConnectHome initiative, having conducted 10 program awareness and enrollment events across 10 ConnectHome pilot communities within AT&T's 21-state wireline footprint.
- AT&T added *Access from AT&T* to its weekly on-line survey in identified discount broadband markets for purposes of reaching eligible potential customers.
- AT&T has marketed the program to budget-minded customers by distributing program information to Cricket and Dollar General customers.

- AT&T sent a direct mailing promoting the program to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] HUD public housing addresses, resulting in a [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] customer application increase in December 2016.
- AT&T is engaging in direct follow-up to approved program applicants to promote more installations.
- AT&T is offering a simplified annual recertification process to its program customers.

Third Report, pp. 51-58. As discussed above, the ICO has taken steps to verify AT&T's efforts to implement and improve the DBS Program. The ICO is confident that AT&T is not only analyzing the effectiveness of the DBS Program, but also making timely and effective changes to channel its analysis into the ongoing improvement of the initiative. The ICO will continue to verify AT&T's efforts to promote and enhance the DBS Program.

DBS Observation 11: AT&T reviewed and responded appropriately to DBS-related complaints.

From June 2016 through January 2017, AT&T forwarded [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints to the ICO, of which [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] were related to the *Access from AT&T* Program. The [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] involved application issues [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] delays in the approval process [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] billing charges [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]

INFORMATION] and general eligibility [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] Some complaints involved more than one issue but, for the purposes of this analysis, the ICO selected the main one and categorized the complaint as such.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] As noted above, over the course of the last reporting period, AT&T has made it easier for customers to access the applications online, relaxed the rules pertaining to supporting documentation, and made extra efforts to follow up on application materials received out of the ordinary application process (*e.g.*, sent to the “Do not reply to this message” address).

The [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] customer complaints regarding delays in approval manifested some of the same issues seen in the application group: SNAP documentation not provided and documentation submitted separately from applications. AT&T reported that the percentage of applications denied for insufficient supporting documentation was trending downward as of mid-March 2017, indicating the changes to the application process may be working. [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] It seems likely that the recently added ability for chat sessions between [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] which gives call agents real-time information about customer status and reasons for denials, will reduce customer frustration by providing timely information and

assistance to applicants.

All [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] billing complaints related to higher bills than the *Access from AT&T* customers expected. Many were legitimate charges incurred for late payments or restoral fees; however, [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The remaining [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints fell broadly into the category of eligibility. Most were from individuals who were disappointed that, although they were low-income, they were not eligible for the *Access from AT&T* Program. A few of the complaints that were forwarded to the DBS Team involved other matters, plus comments such as “the customer also asked about the *Access* Program.”

The ICO found that AT&T reported appropriate responses to DBS Program complaints. Some responses included calls from managers to customers; personalized explanations of bills, billing cycles and late fees; and waiving of fees for goodwill. None of the DBS-related complaints represented a violation of the Merger Conditions.

DBS Concluding Observations

The ICO has found AT&T’s DBS Team to be well organized, cooperative, responsive to questions, and committed to the success of the DBS Program. The ICO specifically inquired whether enrollment of a large number of customers at a low-price point presented a perverse

incentive for any members of the DBS Team. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] Based on the reports we have received and our independent assessment of the actions taken by AT&T, the ICO finds that AT&T is in compliance with the Conditions pertaining to the Discounted Broadband Services Program.

OBSERVATIONS ON AT&T'S COMPLAINT REPORTING PROCESS

The ICO approached the request for reports about AT&T's complaint tracking process with two objectives. The first was to assess the sufficiency of the process established by the Company to ensure that complaints received through various channels that relate to possible violations of the Merger Conditions are adequately investigated and addressed. The second was to give the ICO greater visibility into potential violations and the Company's remediation efforts, if required.

An additional level of complaint monitoring by the Project Management Team, on behalf of the ICO, is the regular search of the internet for any indication of a Merger Condition violation. The Project Management Team conducts keyword searches that aim to find any information related to the AT&T/DirecTV merger. Keyword searches include AT&T or DirecTV as well as several combinations of merger condition terms. Merger condition terms include but are not limited to: "FTTP expansion," "discrimination," "net neutrality," "Snap," "Access," "low income cable/internet," "E-Rate," and "schools and libraries." The results will often yield results consisting of news articles, online consumer forums, and various online

publications. The Project Management Team conducts the searches twice per week and reports any possible violations to the ICO. The searches are conducted at the beginning and the end of each week to assure that the ICO is aware of any potential violations when they come out.

Second, the ICO focused on online locations where cable and internet consumers go to discuss, report, or alert others about cable or internet provider misconduct. The ICO has identified several online sites, groups, and news centers that consumer's often report to. For example, the ICO regularly searches "Consumer Watchdog," a non-profit consumer education and advocacy organization; "Public Knowledge," a site that reports on and promotes freedom of expression, an open internet, and access to affordable communications tools; "Consumer Reports Web Watch" a consumer-focused internet policy and governance site; "Consumer Union" a policy and action division of Consumer Reports that advocates for consumer protection laws; "Free Press" a site focused on fighting to save the open internet, protect press freedom, and ensure diverse voices are represented in the media; and major online news sources. The purpose of the online searches is to assure that the ICO is aware of any potential violations. Once the ICO is aware of a potential merger violation it is further investigated for credibility.

Complaint Reporting Process Observation 1: Online searches did reveal complaints related to the Merger Conditions; none were found to be a violation of the Conditions.

The ICO Project Management Team did find complaints relating to the Merger Conditions, particularly complaints aimed at the *Access From AT&T* Program and complaints aimed at AT&T's newer platform, DirecTV Now. However, the ICO did not find that of any of the Complaints presented evidence of a violation of the Merger Conditions.

Complaint Reporting Process Observation 2: AT&T has established a reasonable process to screen and identify complaints potentially relating to Merger Condition violations.

During the second reporting period, the ICO requested that AT&T develop and share a process to identify complaints that come to the Company from various sources to determine whether any of those complaints allege, directly or indirectly, a possible violation of any of the Merger Conditions. The ICO commented on an initial draft, after which the Company provided a process outline in early June. Some of the key components of the process are described below.

Identifying and Resolving Complaints Alleging a Merger Condition Violation

Multiple offices within AT&T can receive complaints from a variety of sources. The AT&T Office of the President (OOP), External Affairs (EA), and AT&T's Legal Group all routinely receive complaints from escalations of customer issues. Other sources include FCC formal and informal complaints, FCC Enforcement Bureau inquiries, and complaints lodged in federal district court. AT&T's process for screening complaints involves the following actions:

- **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL

INFORMATION]

Providing Information About Complaints to the ICO

The AT&T complaint reporting process as written provides the ICO with sufficient information and insight into complaints to permit the ICO to identify any substantive issues relating to the Merger Conditions that might arise in the form of complaints. Specifically, the process calls for AT&T to provide the ICO with a summary log of all complaints received during the reporting period that AT&T has determined to allege, either directly or indirectly, a Merger Condition violation. The summary log will include, among other things, how the complaint was resolved or, if pending, its current status.

AT&T will also provide the ICO with a summary log of a sample of complaints received during the reporting period that were referred to the Merger Conditions Project Management Team under AT&T's internal reporting process, where the Project Management Team concluded the complaint did not constitute a violation of a Merger Condition. The summary log will include, among other things, the nature of the complaint and the basis for the Project Management Team's determination that the complaint did not constitute a Merger Condition violation. AT&T has agreed to make available to the ICO copies of the actual written complaints (with appropriate redactions, if needed) upon request.

Complaint Reporting Process Observation 3: Initial results from the new complaint reporting process reveal that none of the complaints submitted during this reporting period represent an actual Merger Condition violation.

AT&T provided the first set of complaint summary logs to the ICO on August 16, 2016. As anticipated by the process outline, one summary log contained a sample of the complaints

received during the reporting that were referred to the Project Management Team under the reporting process identified above, but that the team concluded did not allege a violation of a Merger Condition. A second summary log described all complaints received during the reporting period that the Project Management Team determined did, in fact, allege a Merger Condition violation (either directly or indirectly). The actual written complaints contained in the summary logs were also posted (with necessary redactions) to the extranet site of AT&T's outside counsel.

Upon reviewing the information AT&T provided, the ICO concurs with the Company's conclusions regarding the complaints received during this reporting period. There were no complaints received that explicitly referred to a "Merger Condition violation," but there were [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints that generally asserted (incorrectly, according to AT&T) that the Company is applying its usage allowance policy to favor DirecTV and harm online video distributors. AT&T noted that these complaints misconstrue the Company's usage allowance policies. AT&T concludes, and the ICO concurs, that none of these complaints represent an actual Merger Condition violation.

The ICO notes that the complaint reporting process appears designed to help ensure that complaints within the Company's knowledge that raise substantive Merger Condition-related issues are brought to the ICO's attention.

Complaint Reporting Process Observation 4: AT&T has proposed additional refinements to the reporting process.

To make the complaint reporting process as efficient and manageable as possible, AT&T proposed the following refinements for future reporting periods:

- For complaints that were identified as Merger-related by OOP/EA but were found by the Project Management Team not to allege a violation, AT&T will provide a sample log of such complaints to the ICO. If 20 or fewer such complaints are identified, AT&T will provide a summary log of all those complaints. If 21 or more such complaints are identified, AT&T will provide a sample of 20 complaints using a statistically valid sampling technique.
- During this reporting period, the summary logs contained closed complaints related to the discounted broadband and non-discrimination condition only. For future reports, AT&T has agreed to include summaries of complaints relating to all the Merger Conditions, and will implement a process to include both pending and closed complaints during the relevant reporting period.
- AT&T has indicated a goal of providing the ICO with a report with summary logs on the 15th of every month, 45 days after the close of the month being reported. (For example, the ICO can expect to receive a report on August complaints by October 15.)

The ICO concurs in general with these process refinements, and will continue to work with AT&T to maximize the usefulness of the complaint reporting process.